



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/981,328	10/16/2001	Jason Lango	5693P116	4985

48102 7590 12/28/2005

NETWORK APPLIANCE/BLAKELY
12400 WILSHIRE BLVD
SEVENTH FLOOR
LOS ANGELES, CA 90025-1030

EXAMINER

BILGRAMI, ASGHAR H

ART UNIT PAPER NUMBER

2143

DATE MAILED: 12/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/981,328

Applicant(s)

LANGO ET AL.

Examiner

Asghar Bilgrami

Art Unit

2143

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 19 September 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on 16 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>09/19/2005</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-20 rejected under 35 U.S.C. 103(a) as being unpatentable over Srikantan et al (U.S. Pub No 2002/005612 A1).

3. As per claims 1, 6, 9, 13 & 16 Srikantan disclosed a method for reducing peak output traffic bursts in a computer system where a first packet of data is scheduled to be delivered to more than one downstream client system substantially simultaneously comprising: modifying a specified packet delivery time of the first packet of data (partagraph.26, lines 1-4), for delivery of the first packet of data to a first downstream client system; and modifying the specified packet delivery time of the first packet of data, for delivery of the first packet of data to a second downstream client; such that the first packet of data is to be delivered to the first downstream client system at a time different than when the first packet of data is delivered to the second downstream client (page.2, paragraphs 25 & 26). Although Srikantan did not explicitly disclose modifying the media data packet's delivery time for first and second client respectively so that the media data packet from a source reaches the first and second client at slightly different times. However Srikantan disclosed the media frames (packets) of a live event from a single source

Art Unit: 2143

being simultaneously streamed (multiple streams) in a real-time to multiple users in a specified order within a certain period of time (i.e. time interval T1, T2 etc) {paragraphs. 25 & 26(lines 1-8)}. At the time the invention was made it would have obvious to one in the ordinary skill in the art to understand that the above-disclosed method by Srikantan involves modifying the media data packet's (frame) delivery time belonging to single media source (live event) in order to accommodate simultaneous real-time transmission to multiple clients.

4. As per claims 2, 7, 10, 14 & 20 Srikantan disclosed the method of claim 6 wherein determining the first modified delivery time for the second streaming media data packet comprises adding the first delay value to the delivery time of the second streaming media data packet (page.2, paragraph.26, page.3, paragraphs.36 & page.4, paragraphs.46 & 53).

5. As per claims 3, 11 & 19 Srikantan disclosed the method of claim 16 wherein delaying the packet delivery time for the first packet of data to be delivered to the first downstream client system comprises delaying the first packet of data by a delay factor selected from 0-500 milliseconds (page.4, paragraph.40, lines 1-10).

6. As per claims 4 & 15 Srikantan disclosed the method of claim 3 wherein the first delay value is pseudo-randomly selected from the range (milliseconds page.3, paragraphs.36 & page.4, paragraphs.46 & 53).

Art Unit: 2143

7. As per claims 5, 8 & 12 Srikantan disclosed the method of claim 1 further comprising: receiving a data file from the upstream server, the data file including a payload portion of the first streaming media data packet and a payload portion of the second streaming media data packet (page.2, paragraph.30); and storing the data file in a storage within the streaming media cache (page.6, paragraph.75).

8. As per claim 17 Srikantan disclosed the method of claim of claim 16 wherein the first packet of data is framed (page.2, paragraph.26).

9. As per claim 18 Srikantan disclosed the method of claim 16 wherein the first packet of data comprises streaming media data (page.2, paragraph.26).

Response to Arguments

10. Applicant's arguments filed 09/19/2005 have been fully considered but they are not persuasive.

11. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., Splitting) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

12. When reviewing a reference the applicants should remember that not only the specific teachings of a reference but also reasonable inferences which the artisan would have logically drawn therefrom may be properly evaluated in formulating a rejection. In re Preda, 401 F. 2d 825, 159 USPQ 342 (CCPA 1968) and In re Shepard, 319 F. 2d 194, 138 USPQ 148 (CCPA 1963). Skill in the art is presumed. In re Sovish, 769 F. 2d 738, 226 USPQ 771 (Fed. Cir. 1985). Furthermore, artisans must be presumed to know something about the art apart from what the references disclose. In re Jacoby, 309 F. 2d 513, 135 USPQ 317 (CCPA 1962). The conclusion of obviousness may be made from common knowledge and common sense of a person of ordinary skill in the art without any specific hint or suggestion in a particular reference. In re Bozek, 416 F.2d 1385, 163 USPQ 545 (CCPA 1969). Every reference relies to some extent on knowledge of persons skilled in the art to complement that is disclosed therein. In re Bode, 550 F. 2d 656, 193 USPQ 12 (CCPA 1977).

13. Applicant argued “Srikantan does not disclose or suggest modifying the delivery time of as packet in accordance the present invention”.

14. As to applicants arguments please see Examiner’s rejection on line 3.

Conclusion

1. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Asghar Bilgrami whose telephone number is 571-272-3907. The examiner can normally be reached on M-F, 8:00-5:00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, David Wiley can be reached on 571-272-3923. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.


Art Unit: 2143

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



AB

Asghar Bilgrami
Examiner
Art Unit 2143



DAVID WILEY
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100